

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

EMANUEL SHAWN COATES,

Plaintiff,

Case Nos. 2:05-CV-03

Hon. Richard Alan Enslen

v.

KATHERINE KAFCZYNSKI, *et al.*,

Defendants.

ORDER

This matter is before the Court on Plaintiff Emanuel Shawn Coates' Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b). On November 17, 2006, this Court issued an Opinion and Judgment which adopted the Magistrate Judge's Report and Recommendation, granted Defendants' Motion for Summary Judgment, and dismissed Plaintiff's case with prejudice. Plaintiff then filed this Motion for Relief from Judgment simultaneously with a Notice of Appeal to the Sixth Circuit Court of Appeals. Plaintiff moves for relief from the Court's previous Judgment under Rule 60(b)(2), arguing that the Judgment suffered from "mistake, inadvertence, surprise, or excusable neglect." FED. R. CIV. P. 60(b)(2).

A motion for summary judgment is appropriate only if the moving party establishes that there is no genuine issue of material fact for trial and he is entitled to judgment as a matter of law. FED. R. CIV. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). Further, although the evidence must be viewed in a light most favorable to the non-moving party, a mere scintilla of evidence in support of the non-movant's position will be insufficient. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 251-52 (1986). Ultimately, the court must determine whether there is sufficient "evidence on which the jury could reasonably find for the plaintiff." *Id.* at 252. Plaintiff argues the

Court ignored his contradicting affidavit and erroneously made a finding of fact, such that relief is warranted under Rule 60(b).¹ However, the Court has properly determined under Rule 56 that although there may be a scintilla of evidence in support of Plaintiff's position, namely his affidavit in support, that scintilla is insufficient evidence on which the jury could reasonably find for the Plaintiff. *Id; See also Leahy v. Trans Jones, Inc.*, 996 F.2d 136, 139 (6th Cir. 1993) (single affidavit, in presence of other evidence to the contrary, failed to present genuine issue of fact.). The Court's determination and agreement with the Report that Plaintiff could not support his claim of retaliation because he suffered no adverse consequences as a result of his transfer, was devoid of the errors Plaintiff charges.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Emanuel Shawn Coates' Motion for Relief from Judgment (Dkt. No. 283) and Supplemental Motion for Relief from Judgment (Dkt. No. 290) are **DENIED**.

Dated in Kalamazoo, MI:
January 31, 2007

/s/Richard Alan Enslen
Richard Alan Enslen
Senior United States District Judge

¹Plaintiff also submitted a Supplement to his Motion for Relief from Judgment; however, the Supplement failed to allege any facts or arguments pertinent under Rule 60. Plaintiff's Supplement alleges unnamed prison guards made threats and stole or destroyed his personal property. Such facts are not relevant to a Motion for Relief nor is the relief Plaintiff requests under his Supplement to the Motion for Relief.